

RECEIVED
BLM-UTSO

2018 JAN -3 PM 1:04



December 28, 2017

VIA FAX – (801) 539-4237

Mr. Ed Roberson
Director, Utah State Office
Bureau of Land Management
440 West 200 South, Suite 500
Salt Lake City, UT 84101

Re: Protest of Twelve Parcels Proposed for Utah BLM's Canyon Country District March 2018 Oil & Gas Lease Sale

Dear Mr. Roberson:

Pursuant to 43 C.F.R. §§ 3120.1-3 and 4.450-2 the National Parks Conservation Association (NPCA) protests the following twelve parcels proposed for the Utah Bureau of Land Management's (BLM) Canyon Country District March 2018 Oil and Gas Lease Sale:

	PARCEL NUMBER	ACRES
1	UTU93023 (UT0318 – 036)	1537.25
2	UTU93024 (UT0318 – 037)	1600
3	UTU93026 (UT0318 – 039)	1320
4	UTU93027 (UT0318 – 040)	645.52
5	UTU93028 (UT0318 – 041)	1280
6	UTU93029 (UT0318 – 042)	1092.84
7	UTU93030 (UT0318 – 043)	1200
8	UTU93031 (UT0318 – 044)	1600
9	UTU93032 (UT0318-047)	1904.96
10	UTU93033 (UT0318-048)	1280
11	UTU93035 (UT0318-050)	965.04
12	UTU93036 (UTU0318-051)	1960
Total		16,385.61

NPCA is particularly concerned with the level of consideration the BLM gave to analyzing and mitigating impacts on night skies, natural sounds and visitor experience related to parcels near Hovenweep National Monument. In our comment letters to the BLM regarding the lease sale EA (attached), we requested the BLM defer lease parcels within 15 miles of the Square Tower unit of Hovenweep, which includes the visitor center and campground, in order to acquire and analyze new information related to night skies and

Southwest Regional Office

307 West 200 South, Suite 5000 | Salt Lake City, UT 84101 | P 801.521.0785 | F 801.359.2367
www.npca.org

natural sounds protection and ultimately to develop new binding stipulations to protect those important park resources. The National Park Service also requested the deferral of parcels within approximately 15 miles of Hovenweep “in part because of probable detrimental impacts to night sky and soundscape qualities” (NPS EA Comment letter). These deferrals were not granted, nor was an Alternative excluding these parcels given consideration.

Although we appreciate that the BLM included Lease Notice 125 for light and sound, the lack of any type of additional analysis regarding potential impacts to these important resources of Hovenweep is unacceptable. Addressing this significant concern and increasingly important resource for national park units and gateway communities all around the Colorado Plateau with a non-binding lease notice rather than a stipulation does not reflect a genuine commitment by the BLM to address these legitimate concerns regarding a dwindling resource that draws people from around the world.

We are also concerned about the proximity of parcel UT0318-050 and UT0318-051 within 5 miles of the boundary of the Square Tower Unit of Hovenweep National Monument. Portions of both parcels lie within the viewshed of Hovenweep NM and three acres of parcel 050 fall under the BLM’s VRM Class I. The BLM did not address any siting requirements for oil and gas development within this parcel or acknowledge its proximity to the monument in terms of required mitigation. Unless and until these issues and concerns are addressed, BLM lacks the authority to proceed with the lease sale.

STATEMENT OF INTEREST

The mission of the National Parks Conservation Association is to protect and enhance America’s National Park System for present and future generations. Founded in 1919, NPCA is the leading citizen voice for the national parks. We are a national non- profit with 27 regional and field offices across the country, including our Southwest Regional office in Salt Lake City, Utah and Southwest Energy office in Grand Junction, Colorado. NPCA represents over 1.3 million members and supporters who care about America’s shared natural and cultural heritage preserved by the National Park System.

A top priority for NPCA is protecting the resources within parks, the larger landscape in which they are embedded, and the air and water on which they depend, in order to enhance their ecological and cultural integrity. Poorly planned oil and gas development on the landscape adjacent to national park units can result in significant impacts on national park resources including soundscapes, night skies, air quality, and water quality and quantity. In NPCA’s Southwest Region we are working to ensure that oil and gas development near national park units is planned with consideration and care for the many non-drilling uses of the land and that the impacts on national park units from resource extraction in the area is considered. It is critical that the BLM continue to seriously weigh the many non-drilling uses of their shared landscapes, including the protection of the ecological, geological, recreational, scenic and economic attributes of these neighboring national parks.

NPCA participated in the planning process for this lease sale by filing scoping comments dated July 27, 2017 and EA Comments dated October 23, 2017.

AUTHORIZATION TO FILE THIS PROTEST

Southwest Regional Office

307 West 200 South, Suite 5000 | Salt Lake City, UT 84101 | P 801.521.0785 | F 801.359.2367
www.npca.org

David Nimkin is the Senior Regional Director for the Southwest Region of NPCA. In that capacity, he is authorized to file this protest on behalf of the organization and its members.

Mr. Nimkin can be reached at 801-521-0785, or at:

National Parks Conservation Association, SW Regional Office
307 West 200 South, Suite 500
Salt Lake City, UT 84101

STATEMENT OF REASONS

Because the BLM failed to comply with the National Environmental Policy Act ("NEPA") and Instruction Memorandum ("IM") 2010-117, it must defer the protested parcels from the lease sale.

I. The BLM Has Not Complied With the National Environmental Policy Act

We have significant concerns with the proposed lease sale, including BLM's failure to comply with the National Environmental Policy Act in analyzing lease parcels proposed for sale and potential impacts on multiple public lands resources that the BLM Canyon Country District is charged with stewarding.

a. Range of Alternatives

The EA fails to consider a reasonable range of alternatives, in contravention of NEPA. NEPA requires that BLM analyze in detail "all reasonable alternatives." 40 C.F.R. § 1502.14(a). The range of alternatives is the heart of a NEPA document because "[w]ithout substantive, comparative environmental impact information regarding other possible courses of action, the ability of [a NEPA analysis] to inform agency deliberation and facilitate public involvement would be greatly degraded." *New Mexico v. BLM*, 565 F.3d 683, 708 (10th Cir. 2009). That analysis must cover a reasonable range of alternatives, so that an agency can make an informed choice from the spectrum of reasonable options. The EA for the March lease sale fails to meet this requirement. It only analyzes two alternatives: 1. The No Action alternative, which would exclude all lease parcels from the sale; and 2. Proposed Action – Lease Nominated Parcels, which includes 29 parcels in Grand and San Juan Counties, totaling 40,866.64 acres (the Lease Everything Alternative). EA, p. 14.

An EA offering a choice between leasing every parcel nominated, and leasing nothing at all, does not present a reasonable range of alternatives. BLM must consider reasonable alternatives that fall between the two extremes. At a minimum, as detailed later in these comments, BLM should analyze alternatives excluding parcels within 15 miles of Hovenweep NM.

Failing to analyze such middle-ground options would violate NEPA. See *TWS v. Wisely*, 524 F. Supp. 2d 1285, 1312 (D. Colo. 2007) (BLM violated NEPA by failing to consider "middle-ground compromise between the absolutism of the outright leasing and no action alternatives"); *Muckleshoot Indian Tribe v. US Forest Serv.*, 177 F.3d 800, 813 (9th Cir. 1999) (NEPA analysis failed to consider reasonable range of alternatives where it "considered only a no action alternative along with two virtually identical alternatives").

Southwest Regional Office

307 West 200 South, Suite 5000 | Salt Lake City, UT 84101 | P 801.521.0785 | F 801.359.2367
www.npca.org

b. BLM Did Not Take a “Hard Look” at the Impacts of its Proposed Action on National Park Service Lands.

The EA violates NEPA because it fails to explore important and potentially significant environmental impacts of the proposed action on nearby protected lands. Of particular concern is Hovenweep National Monument, which is within view of several proposed lease parcels. The purpose of an EA is to determine whether environmental impacts are significant enough to warrant preparation of an EIS. 40 C.F.R. § 1508.9. The EA must provide “sufficient evidence and analysis” to justify this determination, in part by taking a “hard look” at potential direct, indirect and cumulative impacts of the proposed action. See *Wilderness Soc. v. Forest Serv.*, 850 F. Supp. 2d 1144, 1155 (D. Idaho 2012). Specifically, the EA ignores direct and indirect impacts of noise and light pollution on Monument visitation and revenue. These are all important and potentially significant impacts the EA should have explored.

i. The EA fails to explore light and noise impacts on Hovenweep National Monument

To comply with NEPA, BLM must both identify and explore relevant environmental impacts. See, e.g., *Grand Canyon Trust v. FAA*, 290 F.3d 339, 346 (D.C. Cir. 2002) (“First, the agency has accurately identified the relevant environmental concern. Second, once the agency has identified the problem it must have taken a ‘hard look’ at the problem in preparing the EA.”). In evaluating the environmental impacts of proposed leasing near national parks and monuments, BLM routinely analyzes the impacts of noise and light pollution. See, e.g., *New Mexico BLM*, January 2014 Competitive Oil and Gas Lease Sale EA at pp. 4-7.3 Courts have readily overturned agency actions that ignore these types of effects. See, e.g., *Grand Canyon Trust v. FAA*, 290 F.3d 339 (D.C. Cir. 2002) (EA failed to adequately analyze noise impacts from agency action on Zion National Park).

The EA fails to identify potential impacts on these protected lands from oil and gas leasing, and also fails to explore the likely impacts of the leasing decision to night skies, soundscape, scenic values and other resources of these protected areas. In particular, Hovenweep National Monument is a designated International Dark Sky Park, a designation reserved for parks with “exceptional” and well preserved night sky resources. Data collected by NPS Natural Sounds and Night Sky Division scientists indicate that the sky glow from unmitigated lighting of industrial facilities can be detected up to 35 miles away from the light source under some conditions. Yet the EA does not even identify this potential conflict, let alone attempt to measure, quantify or objectively define what these effects might look like, or evaluate whether they are “significant,” thus warranting preparation of an EIS. See *Klamath-Siskiyou v. BLM*, 387 F.3d 989, 994 (9th Cir. 2004) (“...[g]eneral statements about possible effects and some risk do not constitute a hard look absent a justification regarding why more definitive information could not be provided.”) (citations omitted). Nor does it identify and evaluate the extent to which lease stipulations may successfully mitigate visual, noise and sound impacts to the Monument.

To satisfy NEPA, BLM must actually explore how development on the proposed leases would affect the soundscape, night skies and visual setting within these protected lands. This means answering key questions about impacts to Monument resources, such as:

- How would development on the proposed leases affect night sky visibility from key and popular observation points?

Southwest Regional Office

- Would truck traffic to the parcels be audible from popular visitor locations?
- What would be the air quality impacts on the protected areas from nearby development?
- How will development affect ambient sound levels in the Monument?

These are all important questions BLM must answer to inform its leasing decision and evaluate of the significance of the impact of the leasing decision. To satisfy the hard look requirement, BLM must do more than recognize that certain types of impacts might exist – it must actually explore those impacts.

For example, in 2009, a federal district court enjoined BLM from issuing oil and gas leases in the vicinity of Dinosaur National Monument that were proposed in Utah BLM's December 2008 oil and gas lease sale. The court ruled that prior to selling the leases, BLM had failed to "engage[] in quantitative ozone dispersion modeling" and thus was "unable to assess the concentration of pollution in the air. . . ." The court also found that BLM had failed to adequately evaluate and address potential impacts on cultural, scenic, scientific and other resources under the National Historic Preservation Act and Federal Land Policy and Management Act. *S. Utah Wilderness Alliance v. Allred*, No. 08-2187, 2009 U.S. Dist. LEXIS 30664, at *7-8 (D.D.C. Jan. 17, 2009).

The BLM's refused to analyze of the effects on night skies from oil and gas development based on the Reasonably Foreseeable Development (RFD) scenario, which extrapolates that one well per year would be developed throughout the leases in the March 2018 sale. In the BLM's response to comments regarding the RFD, it is stated, "there is no reason to think that the RFD projections in 2008 is not still valid" (Appendix E Response to Public Comment P. 4-5). However, considering that the RFD was drafted before the widespread adoption of new drilling techniques, as well as the fact that the BLM admits that concentrated oil and gas drilling elsewhere, including the Permian Basin and Bakken Shale formation, has impacted night skies, the BLM's refusal to follow the request of the NPS and assess the impacts to dark night skies from the parcels within this sale is a violation of its duty under NEPA.

ii. The EA fails to explore visitation impacts to Hovenweep National Monument

The EA also ignores important cumulative social and economic impacts that leasing and development can have on visitation and tourism to these protected lands. This should include considerations of development of these parcels on the National Monument and its entrance road. To be sure, social and economic impacts, such as impacts to visitation, tourism and revenue to a National Monument, are environmental effects for purposes of NEPA analysis. See 40 CFR § 1508.8 ("Effects include ecological, aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative."). NEPA's implementing regulations define a cumulative impact as an "impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions." 40 CFR § 1508.7. "A proper consideration of the cumulative impact of a project requires some quantified or detailed information...[g]eneral statements about possible effects and some risk do not constitute a hard look absent justification regarding why more definitive information could not be provided." See *Klamath-Siskiyou v. BLM*, 387 F.3d 989, 994 (9th Cir. 2004) (citations omitted).

Conclusion

Southwest Regional Office

307 West 200 South, Suite 5000 | Salt Lake City, UT 84101 | P 801.521.0785 | F 801.359.2367
www.npca.org

Thank you for the opportunity to file this protest. NPCA respectfully requests that the BLM defer the protested parcels from the March 2018 lease sale, pending further evaluation of potential impacts on Hovenweep National Monument. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "David Nimkin". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

David Nimkin
Senior Regional Director
National Parks Conservation Association

Southwest Regional Office

307 West 200 South, Suite 5000 | Salt Lake City, UT 84101 | P 801.521.0785 | F 801.359.2367
www.npca.org



July 27, 2017

Doug Rowles
BLM Moab Field Office
82 East Dogwood
Moab, UT 84532

Re: Canyon Country March 2018 Oil and Gas Lease Sale Scoping Comments

Dear Mr. Rowles,

The National Parks Conservation Association submits the following scoping comments regarding the Utah BLM's March 2018 Canyon Country oil and gas lease sale. We appreciate the opportunity to provide this input and look forward to working with you to ensure our national parks, their connected cultural landscapes and surrounding public lands are protected and remain the special places that draw visitors from across the country and the world.

National Parks Conservation Association

The mission of the National Parks Conservation Association (NPCA) is to "protect and enhance America's National Park System for present and future generations." Founded in 1919, NPCA is the leading citizen voice for the national parks. We are a national non-profit with headquarters in Washington, DC, and 29 regional and field offices across the country, including our Southwest Regional office in Salt Lake City, Utah. NPCA represents over 1.3 million members and supporters who care about America's shared natural and cultural heritage preserved by the National Park System.

A top priority for NPCA is protecting the resources within parks, the larger landscape in which they are embedded, and the air and water on which they depend, in order to enhance their ecological and cultural integrity. Poorly planned oil and gas development on the landscape adjacent to national park units can result in significant impacts on national park resources including soundscapes, night skies, air quality, and water quality and quantity. In NPCA's Southwest Region we are working to ensure that oil and gas development near national park units is planned with consideration and care for the many non-drilling uses of the land and that the impacts on national park units from resource extraction in the area is considered. It is critical that the BLM continue to seriously weigh the many non-drilling uses of their shared landscapes, including the protection of the ecological, geological, recreational, scenic and economic attributes of these neighboring national parks.

Southwest Regional Office

307 West 200 South, Suite 5000 | Salt Lake City, UT 84101 | P 801.521.0785 | www.npca.org

Lease deferrals near Hovenweep National Monument

Hovenweep National Monument is the national park site most directly impacted by the March 2018 lease sale within the Monticello Field Office planning area. Lease sale parcels lie within the same area that the BLM considered for oil and gas leasing in their February 2015 oil and gas lease sale. At that time, NPCA and others protested the inclusion of many of the parcels, which were ultimately deferred. NPCA was and remains particularly concerned with the lack of consideration the BLM gave to analyzing and mitigating impacts on night skies, natural sounds and visitor experience related to parcels near Hovenweep National Monument. These impacts are outlined in detail below. In 2015, NPCA protested 8 parcels on our own and four more through a joint protest with Friends of Cedar Mesa and The National Trust for Historic Preservation in the sale. We requested the BLM defer leasing on all twelve of the protested parcels until those issues could be addressed with new information and new lease stipulations could be developed to ensure binding protections are in place.

We were pleased with the BLM's decision to withdraw or defer leasing the 12 parcels, among others, in sensitive areas with a considerable degree of unique cultural resources. NPCA and other local stakeholders looked forward to the BLM taking the opportunity to collect new information and work with stakeholders including the National Park Service, tribal leaders, community members and interested stakeholders to plan for appropriate development of oil and gas while protecting the significant cultural resources and remote character of this region. An inclusive process that considers existing stakeholder concerns has not taken shape and needs to be completed before future leasing in this area proceeds. As proposed, the Canyon Country March 2018 lease sale and subsequent development could result in significant impacts to the natural and cultural resources and overall visitor experience of Hovenweep National Monument and the adjacent shared landscape.

We again request that the BLM remove the parcels within 15-miles of Hovenweep National Monument from the March 2018 lease sale to incorporate updated information on cultural resources and impacts to Monument resources. We urge the BLM to undergo an inclusive collaborative planning process, whether in the form of a Master Leasing Plan or other Resource Management Plan Revision or Amendment that considers the non-extractive resources, values and uses of the Southeastern Utah landscape with cultural and ecological connections to the entire Four Corners region. With increased knowledge of important cultural resources in the region through an ongoing Class I Cultural Survey of archeological sites and improved technology for oil and gas development, the BLM needs to take the time to identify where and how oil and gas leasing and subsequent development should take place including the development of new lease stipulations to ensure binding protections are in place.

Hovenweep National Monument

Created through a Presidential Proclamation by President Warren Harding in 1923, Hovenweep National Monument protects the remains of six ancestral Puebloan villages dating from A.D. 1200 to 1300. However, there is also evidence of early hunter – gatherers in the area as far back as 8,000 B.C. Today, the monument remains located in a remote corner of Utah where visitors can seemingly travel back through time to learn about the former occupants as well as their present-day Native American descendants and more recent European settlers. The broader landscape around Hovenweep is filled with additional ancestral, sacred sites and ties into other

protected cultural areas including Chaco Canyon National Monument in New Mexico, Mesa Verde National Park in Colorado, Canyon of Ancients National Monument in Colorado and the newly designated Bears Ears National Monument in Utah.

According to Hovenweep National Monument's Foundation Document, which guides NPS decision-making and management, one of the factors that contributes to the significance of the monument is that: *"Hovenweep's perceived remoteness and uninterrupted horizons lend a sense of discovery to visitors' experiences".*¹ Because of that perceived remoteness, some of the fundamental resources and values of the monument include views and vistas from the park boundary, dark night skies, and natural sounds. These are attributes of the monument that the NPS has identified for primary consideration during planning and management processes because they are essential to achieving the purpose of the park and maintaining its significance.

The NPS has strong authority to protect its resources from harmful impacts on nearby lands. The significance of park resources, including scenic values, at our national parks and the responsibility of NPS to protect them was clearly articulated in the Organic Act of 1916, "... to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations."

Further, because national parks are not islands of protection, and their scenery and fundamental resources are more often at risk from adverse impacts originating outside national park boundaries, the NPS Management Policies 2006 (§ 4.1.4) outline the responsibility of NPS to engage with other agencies and decision-makers.

... the Service will seek the cooperation of others in minimizing the impacts of influences originating outside parks by controlling noise and artificial lighting, maintaining water quality and quantity, eliminating toxic substances, preserving scenic views, improving air quality, preserving wetlands, protecting threatened or endangered species, eliminating exotic species, managing the use of pesticides, protecting shoreline processes, managing fires, managing boundary influences, and using other means of preserving and protecting natural resources.

The San Juan/Glen Canyon Master Leasing Plan

Concerns with oil and gas leasing and potential development near Hovenweep National Monument, as addressed by the NPS, NPCA and others, could be resolved through inclusive landscape level master lease planning or a similar process, which would include stakeholder coordination and an opportunity to resolve other potential conflicts on the landscape. NPCA has long advocated for a comprehensive approach to leasing decisions near our national parks. We have strongly supported the BLM's Master Leasing Plan (MLP) process and applauded the thoughtful, inclusive process undertaken with the Moab MLP. The result of the Moab MLP was a comprehensive analysis of potential impacts to park resources and acceptable decisions about

¹ https://www.nps.gov/hove/learn/management/upload/HOVE_Overview_Final_2013.pdf

where and how to develop oil, gas and potash in an area with competing non-mineral extractive uses.

We urge the BLM to undertake a similar collaborative stakeholder process to avoid the costly and time-consuming lease, protest, deferral, and potential litigation cycle near other southeast Utah national park units, including Hovenweep and Natural Bridges National Monuments and Glen Canyon National Recreation Area. Much of the area around these three NPS units was identified and ultimately included in the Glen Canyon/San Juan MLP boundary. The Monticello RMP also acknowledges the need to “encourage conservation of sensitive resource values” (*Monticello Approved RMP—Mineral Resources P.80*) within the Field Office planning area. We believe the Glen Canyon/San Juan MLP area still merits a focused landscape planning approach for oil and gas leasing and development, particularly with the new Bears Ears National Monument and a recognition that most of this area contains a considerable amount of cultural resources – many of which have not been inventoried and are located outside of the monuments with protected status.

A process such as an MLP provides the opportunity to incorporate new information and develop updated lease stipulations and other mitigation measures to address resource concerns. The Moab MLP, for example analyzed and incorporated new information and mitigation measures for potential impacts to National Park resources including night skies, natural sounds, and viewsheds.

Artificial Separation of Leasing and Drilling Impacts

Now is the time to analyze potential impacts of oil and gas development. In other oil and gas leasing processes, the BLM repeatedly attempts to separate impacts from leasing parcels and future development of the leases despite also acknowledging that *“leasing is considered to be an irretrievable commitment of resources because the BLM generally cannot deny all surface use of the lease unless the lease is issued with a No Surface Occupancy (NSO) stipulation.”* (DOI-BLM-UT-Co30-2017-0010-EA/ Environmental Assessment September 2017 Oil and Gas Lease Sale, P. 8). In other leasing processes, the BLM often includes a host of stipulations that would be attached to the Application for Permit to Drill (APD). However, the APD stage requires little or no public input and postponing the majority of decisions to the APD stage means the scope of development will be shaped *after* the lease is in the legal authority of the oil and gas operator and *after* BLM has made an *irretrievable commitment of resources*. Leasing before the BLM fully accounts for the range of potential impacts from oil and gas drilling conflicts with the spirit of the National Environmental Policy Act process.

Potential Impacts to Hovenweep National Monument to Analyze

National park and monument visitors are flocking to Utah in record numbers. According to the National Park Service, 14.4 million people visited Utah’s national parks in 2016. Those visitors are coming to experience not only Utah’s Mighty Five national parks, but the mosaic of spectacular public lands across our state, including Hovenweep National Monument and the new Bears Ears National Monument. According to the Outdoor Industry Foundation, that visitation also translated into a contribution of \$12.3 billion to Utah’s economy. It is therefore important to recognize the importance of preserving the natural and cultural resources that are protected by our national parks and monuments along with the celebrated dark night skies, intense quiet and the spectacular vistas that continue to draw more and more visitors. Prior to

offering oil and gas leases in the Canyon Country March 2018 lease sale, the BLM needs to take a hard look at the direct, indirect, and cumulative impacts to the resources of Hovenweep National Monument including its air and water quality, cultural resources, dark night skies, natural sounds, and viewsheds.

Air Quality

Visitors to national parks and wilderness areas consistently rate visibility and clear scenic vistas as one of the most important aspects of their experience. Clean air enhances the color and contrast of landscape features; allows visitors to see great distances; and safeguards ecosystem, visitor, and public health. Particulate matter (PM), nitrogen oxides (NO_x), sulfur dioxide (SO₂) and volatile organic compounds (VOCs) are haze-causing pollutants that obscure scenic vistas in national parks by impairing a viewer's ability to see long distances, color and geologic formation. They also contribute to unhealthy National Ambient Air Quality Standard pollutants ozone and particulate matter.

NPCA urges the BLM to honor the Department of Interior joint agency Memorandum of Understanding related to Air Quality Analysis and Mitigation for Federal Oil and Gas Decisions (MOU), to consult with the NPS in order to address potential impacts to air quality, and air quality related values (AQRVs) as a result of the proposed lease sale and development and to act in a manner consistent with park resource protection by fully assessing potential impacts and planning for the avoidance of such impact or mitigation as necessary. Additionally, under NEPA, the BLM has obligations to assess and report the near-field, far-field and cumulative impacts of expected emissions from the proposed project on the National Ambient Air Quality Standards (NAAQS), prevention of significant deterioration (PSD) increments, and air quality related values (AQRVs), and to identify alternatives or other mitigation measures sufficient to prevent expected violations of NAAQS, PSD increments and adverse impacts on AQRVs. (40 C.F.R. §§ 1502.14(a), (f), 40 C.F.R. § 1502.16(h) and 40 C.F.R. § 1508.27(b)(10)). The BLM must ensure its proposed actions adequately protect AQRVs and otherwise do not result in a violation of any Clean Air Act standard.

It is not appropriate to wait until the ADP stage to conduct an emissions inventory and quantitatively analyze reasonably foreseeable impacts from development of these parcels. Otherwise, it is almost inevitable that the impacts of each individual development project will be reviewed in piecemeal and dismissed, and the cumulative impact of all development resulting from the proposed project will never be reviewed. Therefore, the EA should include an emissions inventory that documents the upper bounds of emissions from all potential development and not just from one well.

The BLM also needs to account or mitigate for methane emissions associated with oil and gas production near Hovenweep National Monument and near Mesa Verde National Park. Each year, millions of cubic feet of methane from oil and gas operations is either intentionally vented into the atmosphere, burned off at the well, or leaked from production facilities. All those emissions add up to diminished air quality and visibility at national parks across the West. It is well documented that methane pollution is also one of the most powerful contributors to climate change, one of the greatest threats facing our national parks. The NPS expressed similar

concerns for the February 2015 Canyon Country lease sale, “visibility and ozone also warrant moderate concern, and wet nitrogen deposition warrants significant concern” at Hovenweep.

Water Resources

Water is a precious resource in the West. However, activities including oil and gas development can have significant impacts on its quality and quantity. The NPS has identified springs and seeps as a fundamental resource of Hovenweep National Monument that “merit primary consideration during planning and management processes because they are essential to achieving the purpose of the park and maintaining its significance”². Preserving and protecting key water sources is, therefore, a clear priority for park managers. The BLM needs to provide a thorough analysis to accurately determine potential impacts to water quality or quantity within the leasing area and an appropriate plan for water usage.

Cultural Resources

Before leasing is permitted in this area, specific cultural resource protection must be met. Many of the leases deferred from the February 2015 Canyon Country lease sale were because of the “considerable degree of cultural resources”. We understand the BLM is in the process of conducting a Class I Cultural Resource Inventory of this area to determine the presence of known archaeological sites within the area, however, that work has not been completed to our knowledge. Moving forward with leasing now, in a similar area as the proposed, but deferred leases in 2015, without adequate information on the area’s extensive cultural resources, will only lead to protest, potential litigation, and further conflict with stakeholders. We urge the BLM to complete the Cultural Resource Inventory and consult with Native American tribes to better inform leasing decisions. Consultation with Native American tribes and other concerned cultural resource stakeholders throughout public lands management planning is critical and necessary to identify traditional cultural properties, sacred landscapes, and other issues and concerns regarding oil and gas development in the lease area.

Dark Night skies

The National Park Service recognizes dark night skies as an important resource that plays a role in natural resource processes and the evolution of species, as well as contributing to the national park visitor experience (NPS Management Policies 2006, § 4.10). National Parks have become some of the last sanctuaries of darkness amidst a rising surge of light pollution. Many visitors go to national parks just to experience the dark, starry skies, which in turn brings economic benefit to the parks and surrounding communities. A 2007 Utah national park visitor survey by Southern Utah University found that 90% believed that some places need to be preserved especially for their nighttime visibility, and 80% believed that communities near national parks should assist in maintaining dark skies.³ In addition to the visitor experience, wildlife species depend on natural patterns of light and dark for navigation, to cue behaviors, or hide from predators.

² https://www.nps.gov/hove/learn/management/upload/HOVE_Overview_Final_2013.pdf

³ NPS Night Sky Program Brochure; <http://smdepo.org/download/0a7dbefda8045>

The BLM also manages public lands in part for “scenic values,” which include night skies. 43 U.S.C. § 1702(c). Under NEPA, the BLM must account for the direct, indirect and cumulative impacts of “past, present, and reasonably foreseeable future actions” on night skies. 40 C.F.R. §§ 1502.16, 1508.7, 1508.8. Such actions include exploring and drilling for, and producing, transporting and processing oil and gas.

This is especially critical because, in 2014, the International Dark-Sky Association named Hovenweep National Monument an International Dark Sky Park, a designation reserved for parks with “exceptional” and well-preserved night sky resources. Because this is a new designation, it is not accounted for and addressed in the 2008 Monticello Field Office Resource Management Plan, and, therefore, is new information meriting additional analysis in the EA and the development of new lease stipulations.

Soundscapes

The National Park Service (NPS) manages park units to protect natural, cultural, and historic sounds they consider fundamental to the purposes and values for which the parks were established. The NPS Natural Sounds Program Mission is “...to protect, maintain, or restore acoustical environments throughout the National Park System.” Noise impacts the acoustical environment by obscuring the listening environment for both visitors and wildlife. An appropriate acoustical environment is also an important element in how we experience the cultural and historic resources in the national parks. Places of deep quiet are most vulnerable to noise. Therefore, wildlife in remote wilderness areas and park visitors who journey to these quiet places are likely to be especially sensitive to noise. Further, soundscapes are part of the “human environment” subject to the requirements of NEPA. 42 U.S.C. § 4331 (C); *see also Wyoming v. United States DOI*, 674 F.3d 1220, 1236 (10th Cir. 2012) (upholding NEPA analysis in part because NPS properly considered “soundscapes”).

As mentioned earlier, one of the significant attributes of Hovenweep National Monument is the “perceived remoteness” of the area. A natural sound environment is one of the features that visitors traveling to the area can still experience. According to NPS comments on the February 2015 oil and gas lease sale, noise from unmitigated drilling can be heard over 6 miles away. We urge the BLM to analyze potential impacts from oil and gas drilling and production activities on the proposed lease parcels and to refer to the noise propagation information included in the Moab Master Leasing Plan.

Viewshed

As you know, the Colorado Plateau is a vast, wide, open landscape that affords incredible views, in some cases 360 degree views of undeveloped land for 100 miles. Public land management boundaries are indistinguishable to most visitors. As mentioned above, part of the unique experience of visiting Hovenweep National Monument and this remote area of Southeastern Utah is the opportunity to seemingly travel back through time to learn about ancient history and modern settlers to the area as well as the expansive views and vistas from within the Monument. However, oil and gas development within view of the park entrance road and the Monument could significantly impact that experience.

Therefore, we ask the BLM to analyze and consider how the national parks' visual resources will be impacted by potential oil and gas leasing and subsequent development. Specifically, the infrastructure required for this type of development: road building, drill pads, haul trucks, and evaporation ponds, could diminish the recreational quality of these remote, protected landscapes of the Colorado Plateau if they are allowed to cover the lands visually adjacent to our national parks. The industry standard, based on an EPA study⁴, for developing an average well requires 400-1400 trips from heavy-duty trucks during the exploratory and construction phases. In addition, production and maintenance requires additional light and heavy-duty traffic for the life of the well, or until the developer relinquishes its right to the lease. Industrial truck traffic will increase noise, dust and pollution, can damage roads, create safety concerns for visitors to the park and decrease the park visitor experience.

We encourage the BLM to work closely with the NPS throughout the current EA process, including on the viewshed analysis in order to incorporate NPS generated GIS data to accurately inform the final leasing decision.

Conclusion

Thank you for considering our comments along with those of other stakeholders who support the goal of maintaining the integrity of Hovenweep National Monument, the larger cultural landscape and adjacent BLM land. We look forward to further discussions with the BLM and other stakeholders to help shape the management of our southeastern Utah public lands and ultimately to help find a balance between protecting our nation's rich cultural history and developing our energy resources in a responsible way.

Sincerely,



Jerry Otero
Southwest Energy Program Manager



Erika Pollard
Utah Senior Program Manager

Cc:

Lance Porter, Canyon Country District Manager
Ed Roberson, Utah BLM Director

⁴ <https://www.epa.gov/sites/production/files/documents/OilandGasVehicleEmissionInventories.pdf>



October 23rd, 2017

United States Department of Interior
Bureau of Land Management Moab Field Office
Attn: Doug Rowles
82 East Dogwood
Moab, Utah 84532

RE: Canyon Country Oil and Gas Lease Sale, March 2018/Determination of NEPA Adequacy DOI-BLM-UT-Y010-2017-0285-DNA, Environmental Assessment DOI-BLM-UT-Y010-2017-0240-EA

Comments submitted via email to: [blm ut mb comments@blm.gov](mailto:blm_ut_mb_comments@blm.gov)

Dear Mr. Rowles,

We respectfully submit the following comments to the Bureau of Land Management (BLM) Canyon Country Office regarding the Environmental Assessment and the Determination of NEPA Adequacy offered for the March 2018 lease sale. NPCA represents thousands of Utahans along with 1.3 million members and supporters nationwide who understand the need to preserve and protect national parks throughout the country. To that end, we hope that our comments will inform the oil and gas leasing decisions in the area around Hovenweep National Monument, Canyons of the Ancients National Monument and Arches and Canyonlands National Parks. We look forward to working with you to continue implementing the Moab Master Leasing Plan (MLP) and to make sure that our national parks and surrounding public lands remain the special places that they are to people everywhere.

I. National Parks Conservation Association

The mission of NPCA is to “protect and enhance America’s National Park System for present and future generations.” Founded in 1919, NPCA is the leading citizen voice for the national parks. We are a national nonprofit with headquarters in Washington, DC, and 27 regional and field offices across the country, including our southwest regional headquarters in Salt Lake City.

A top priority for NPCA is protecting the resources within parks, the larger landscapes in which they are embedded, and the air and water on which they depend, in order to protect and enhance their ecological and cultural integrity. NPCA recognizes the need for diverse energy sources, however, poorly planned oil and gas development on the landscape adjacent to national park

units can result in significant impacts on national park resources including soundscapes, night skies, air quality, and water quality and quantity as well as the overall visitor experience. The BLM is obligated under the National Environmental Policy Act (NEPA) to analyze the impacts of its leasing on national parks and other sensitive area. The BLM has not fulfilled that obligation here.

II. Request for Deferral

After review of the Environmental Assessment (EA) and the Determination of NEPA Adequacy (DNA), we urge you to defer parcels 050, 051 and remove the parcels within 15-miles of Hovenweep National Monument (036, 037, 039, 040, 041, 042, 043, 044, 047, 048) from the March 2018 lease sale. We request that the BLM permanently withdraw these parcels from any future leasing or until the Resource Management Plan is revised to include a comprehensive analysis and strong mitigation measures for natural and cultural resources.

III. History of Resource Protection at Hovenweep National Monument

Created through a Presidential Proclamation by President Warren Harding in 1923, Hovenweep National Monument protects the remains of six ancestral Puebloan villages dating from A.D. 1200 to 1300. However, there is also evidence of early hunter – gatherers in the area as far back as 8,000 B.C. Today, the monument remains located in a remote corner of Utah where visitors can seemingly travel back through time to learn about the former occupants as well as their present-day Native American descendants and more recent European settlers. The broader landscape around Hovenweep is filled with additional ancestral, sacred sites and ties into other protected cultural areas including Chaco Canyon National Monument in New Mexico, Mesa Verde National Park in Colorado, Canyon of Ancients National Monument in Colorado and the newly designated Bears Ears National Monument in Utah.

According to Hovenweep National Monument’s Foundation Document, which guides NPS decision-making and management, one of the factors that contributes to the significance of the monument is that: “Hovenweep’s perceived remoteness and uninterrupted horizons lend a sense of discovery to visitors’ experiences¹” Because of that perceived remoteness, some of the fundamental resources and values of the monument include views and vistas from the park boundary, dark night skies, and natural sounds. These are attributes of the monument that the NPS has identified for primary consideration during planning and management processes because they are essential to achieving the purpose of the park and maintaining its significance.

The NPS has strong authority to protect its resources from harmful impacts on nearby lands. The significance of park resources, including scenic values, at our national parks and the responsibility of NPS to protect them was clearly articulated in the Organic Act of 1916, “... to the fundamental purpose of the said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”

¹ https://www.nps.gov/hove/learn/management/upload/HOVE_Overview_Final_2013.pdf

Further, because national parks are not islands of protection, and their scenery and fundamental resources are more often at risk from adverse impacts originating outside national park boundaries, the NPS Management Policies 2006 (§ 4.1.4) outline the responsibility of NPS to engage with other agencies and decision-makers.

... the Service will seek the cooperation of others in minimizing the impacts of influences originating outside parks by controlling noise and artificial lighting, maintaining water quality and quantity, eliminating toxic substances, preserving scenic views, improving air quality, preserving wetlands, protecting threatened or endangered species, eliminating exotic species, managing the use of pesticides, protecting shoreline processes, managing fires, managing boundary.

a. Parcel 050

This parcel is approximately four miles from the boundary of the Square Tower unit of Hovenweep National Monument, the main visitor attraction at the monument that includes the visitor center and campground along with the Square Tower ruins. Parcel 050 is also immediately adjacent to Colorado's Canyon of the Ancients National Monument, and within a hundred yards of the Pedro Point Ruin inside the national monument. The southeast corner of parcel 050, near Pedro Point Ruin, is on the rim of Cross Canyon and within view of the Square Tower unit of Hovenweep National Monument. From this section of the lease parcel on a clear day, one can also see Shiprock, New Mexico, Cortez, Colorado, Sleeping Ute Mountain, and the Bears Ears Buttes of Utah's Bears Ears National Monument. Development within this portion of the parcel would be highly visible from many vantage points and could result in impacts to the intensely dark night skies. Development on this parcel could also result in impacts to the natural sounds of the area and within the boundaries of Hovenweep.

b. Parcel 051

This parcel is within 3-5 miles of the boundary of the Square Tower unit of Hovenweep National Monument. Similar to Parcel 050, development on the ridge between Cross Canyon and Squaw Canyon would be within the viewshed of Hovenweep National Monument and much of the broader landscape. Impacts to the dark night skies, natural sounds and expansive, wide-open views from the Square Tower unit of Hovenweep National Monument would be similar to those described for parcel 50.

The EA for the March 2018 oil and gas lease sale does not include any lease notices or stipulations for mitigating impacts on the night skies, natural sounds or visual intrusions within this lease parcel. According to the National Park Service (NPS), noise from unmitigated drilling can be heard over 6 miles away.

In addition, access to both parcel 050 and 051 would be from County Road 212, which is also the road that visitors entering Hovenweep from the west would travel. Increased truck traffic from oil and gas drilling and production activities would have an additional impact on the visitor experience, the night skies and natural quiet as well as the air quality.

c. Parcels within 15 miles of Hovenweep NM

In addition to parcels 050, 051, NPCA is also concerned about all parcels within at least 15 miles of the boundary of the Square Tower unit of Hovenweep National Monument due to potential impacts on the night skies and the lack of adequate mitigation included in the BLM's EA. That includes the following parcels: 036, 037, 039, 040, 041, 042, 043, 044, 047, 048. Without adequate stipulations for mitigating the impacts of lighting, flaring and other light sources related to oil and gas drilling and production, it is irresponsible to move forward with leasing in this area. In the BLM's February 2015 Canyon Country Oil and Gas Lease Sale, NPCA protested all parcels within 15 miles of the boundary of Hovenweep NM based on potential impacts on night skies from oil and gas production and development activities.

NPCA also has concerns with viewshed impacts based on NPS analysis² and location of key features like Pedro Point Ruin which is located approximately 100 yards from the parcel 050. And while the numerous cultural sites within the parcels are priceless in nature, it is important to note that, just outside lease 50 is Pedro Point Ruin, whose significance is beyond the site itself, as its setting and location in Canyons of the Ancients and to the larger viewshed are of equal importance. From Parcel 050, the Bears Ears, Shiprock and Ute Mountain are all visible, as well as broad views of the larger surrounding landscape. It is believed that ancestral Puebloans built in places like Pedro Point because of its view of prominent landscape features that may have had spiritual significance.

Maintaining the integrity of the viewshed is important to the living religious practices of indigenous people, the visitor experience, and to preservation of the ongoing and still unfolding understanding of the Native American's complex and dynamic history. The viewshed impacts underscore the need for deferral of Parcel 050 and 051 and comprehensive land planning that accounts for sound, light, and viewshed concerns outside of what is prescribed in stipulations and lease notices.

IV. Past Lease Deferrals Near Hovenweep National Monument

Lease parcels currently included in the March 2018 sale lie within the same area that the BLM considered for oil and gas leasing in their February 2015 oil and gas lease sale. At that time, NPCA and others protested a total of eighteen parcels, challenging the BLM's compliance with NEPA, IM 2010-117, and the National Historic Preservation Act (NHPA)³. NPCA and our partners on those protests asked for parcels to be deferred "pending further evaluation of potential impacts on Hovenweep National Monument," and to better study the archaeological resources in the Montezuma Canyon. The BLM deferred all eighteen of those parcels, along with ten others protested by other entities.⁴

We agreed with the BLM's decision to withdraw or defer leasing the parcels, among others, in sensitive areas with a considerable degree of unique cultural resources. NPCA and other local stakeholders looked forward to the BLM taking the opportunity to collect new information and work with stakeholders including the National Park Service, tribal leaders, community members

² See National Park Service viewshed analysis attached

³ See, attached NPCA Feb. 2015 Protest, and NPCA/NTHP/Cedar Mesa Feb. 2015 Protest, attached.

⁴ https://www.blm.gov/sites/blm.gov/files/uploads/Protest.Info_.Notice.Post_.Response.pdf

and interested stakeholders to plan for appropriate development of oil and gas while protecting the significant cultural resources and remote character of this region. However, an inclusive process that considers existing stakeholder concerns has not been initiated and we believe needs to be completed before future leasing in this area proceeds. As proposed, the Canyon Country March 2018 lease sale and subsequent development could result in significant impacts to the natural and cultural resources and overall visitor experience of Hovenweep National Monument and the adjacent shared landscape.

We urge the BLM to undergo the kind of inclusive collaborative planning process they recognized as necessary when they deferred the Feb. 2015 lease, and when the San Juan MLP was announced. With increased knowledge of important cultural resources in the region through an ongoing Class I Cultural Survey of archeological sites and improved technology for oil and gas development, the BLM needs to take the time to identify where and how oil and gas leasing and subsequent development should take place including the development of new lease stipulations to ensure binding protections are in place.

V. Failure to Comply with NEPA

We have significant concerns with the proposed lease sale, including BLM's failure to comply with the National Environmental Policy Act in analyzing lease parcels proposed for sale and potential impacts on multiple public lands resources that the BLM Canyon Country District is charged with stewarding.

a. Range of Alternatives

The EA fails to consider a reasonable range of alternatives, in contravention of NEPA. NEPA requires that BLM analyze in detail "all reasonable alternatives." 40 C.F.R. § 1502.14(a). The range of alternatives is the heart of a NEPA document because "[w]ithout substantive, comparative environmental impact information regarding other possible courses of action, the ability of [a NEPA analysis] to inform agency deliberation and facilitate public involvement would be greatly degraded." *New Mexico v. BLM*, 565 F.3d 683, 708 (10th Cir. 2009). That analysis must cover a reasonable range of alternatives, so that an agency can make an informed choice from the spectrum of reasonable options. The EA for the March lease sale fails to meet this requirement. It only analyzes two alternatives: 1. The No Action alternative, which would exclude all lease parcels from the sale; and 2. Proposed Action – Lease Nominated Parcels, which includes 29 parcels in Grand and San Juan Counties, totaling 40,866.64 acres (the Lease Everything Alternative). EA, p. 14.

An EA offering a choice between leasing every parcel nominated, and leasing nothing at all, does not present a reasonable range of alternatives. BLM must consider reasonable alternatives that fall between the two extremes. At a minimum, as detailed further later in these comments, BLM should analyze alternatives excluding parcels within 15 miles of Hovenweep NM.

Failing to analyze such middle-ground options would violate NEPA. See *TWS v. Wisely*, 524 F. Supp. 2d 1285, 1312 (D. Colo. 2007) (BLM violated NEPA by failing to consider "middle-ground compromise

between the absolutism of the outright leasing and no action alternatives"); *Muckleshoot Indian Tribe v.*

US Forest Serv., 177 F.3d 800, 813 (9th Cir. 1999) (NEPA analysis failed to consider reasonable range of alternatives where it "considered only a no action alternative along with two virtually identical alternatives").

The EA makes the flawed assumption that demand for oil and gas will be unaffected under the no-action alternative, thereby suggesting the environmental impacts caused by the lease sale will be no different than the impacts if the lease sale does not go through. By reducing the supply of oil and gas under the no action alternative, however, the price of oil and gas can be expected to rise. Because a rising price will depress demand, BLM's assumption is unwarranted.

b. BLM Did Not Take a "Hard Look" at the Impacts of its Proposed Action on National Park Service Lands.

The EA violates NEPA because it fails to explore important and potentially significant environmental impacts of the proposed action on nearby protected lands. Of particular concern is Hovenweep National Monument, which is within view of several proposed lease parcels. The purpose of an EA is to determine whether environmental impacts are significant enough to warrant preparation of an EIS. 40 C.F.R. § 1508.9. The EA must provide "sufficient evidence and analysis" to justify this determination, in part by taking a "hard look" at potential direct, indirect and cumulative impacts of the proposed action. See *Wilderness Soc. v. Forest Serv.*, 850 F. Supp. 2d 1144, 1155 (D. Idaho 2012). Specifically, the EA ignores direct and indirect impacts of noise and light pollution on Monument visitation and revenue. These are all important and potentially significant impacts the EA should have explored.

i. The Preliminary EA fails to explore light and noise impacts on Hovenweep National Monument

To comply with NEPA, BLM must both identify and explore relevant environmental impacts. See, e.g., *Grand Canyon Trust v. FAA*, 290 F.3d 339, 346 (D.C. Cir. 2002) ("First, the agency has accurately identified the relevant environmental concern. Second, once the agency has identified the problem it must have taken a 'hard look' at the problem in preparing the EA."). In evaluating the environmental impacts of proposed leasing near national parks and monuments, BLM routinely analyzes the impacts of noise and light pollution. See, e.g., *New Mexico BLM*, January 2014 Competitive Oil and Gas Lease Sale EA at pp. 4-7.3 Courts have readily overturned agency actions that ignore these types of effects. See, e.g., *Grand Canyon Trust v. FAA*, 290 F.3d 339 (D.C. Cir. 2002) (EA failed to adequately analyze noise impacts from agency action on Zion National Park).

The EA fails to identify potential impacts on these protected lands from oil and gas leasing, and also fails to explore the likely impacts of the leasing decision to night skies, soundscape, scenic values and other resources of these protected areas. In particular, Hovenweep National Monument is a designated International Dark Sky Park, a designation reserved for parks with

“exceptional” and well preserved night sky resources.⁵ Data collected by NPS Natural Sounds and Night Sky Division scientists indicate that the sky glow from unmitigated lighting of industrial facilities can be detected up to 35 miles away from the light source under some conditions. Yet the EA does not even identify this potential conflict, let alone attempt to measure, quantify or objectively define what these effects might look like, or evaluate whether they are “significant,” thus warranting preparation of an EIS. See *Klamath-Siskiyou v. BLM*, 387 F.3d 989, 994 (9th Cir. 2004) (“...[g]eneral statements about possible effects and some risk do not constitute a hard look absent a justification regarding why more definitive information could not be provided.”)(citations omitted). Nor does it identify and evaluate the extent to which lease stipulations may successfully mitigate visual, noise and sound impacts to the Monument.

To satisfy NEPA, BLM must actually explore how development on the proposed leases would affect the soundscape, night skies and visual setting within these protected lands. This means answering key questions about impacts to Monument resources, such as:

- How would development on the proposed leases affect night sky visibility from key and popular observation points?
- Would truck traffic to the parcels be audible from popular visitor locations?
- What would be the air quality impacts on the protected areas from nearby development?
- How will development affect ambient sound levels in the Monument?

These are all important questions BLM must answer to inform its leasing decision and evaluate of the significance of the impact of the leasing decision. To satisfy the hard look requirement, BLM must do more than recognize that certain types of impacts might exist – it must actually explore those impacts.

For example, in 2009, a federal district court enjoined BLM from issuing oil and gas leases in the vicinity of Dinosaur National Monument that were proposed in Utah BLM’s December 2008 oil and gas lease sale. The court ruled that prior to selling the leases, BLM had failed to “engage[] in quantitative ozone dispersion modeling” and thus was “unable to assess the concentration of pollution in the air. . . .” The court also found that BLM had failed to adequately evaluate and address potential impacts on cultural, scenic, scientific and other resources under the National Historic Preservation Act and Federal Land Policy and Management Act. *S. Utah Wilderness Alliance v. Allred*, No. 08-2187, 2009 U.S. Dist. LEXIS 30664, at *7-8 (D.D.C. Jan. 17, 2009).

ii. The Preliminary EA fails to explore visitation impacts to Hovenweep National Monument

The EA also ignores important cumulative social and economic impacts that leasing and development can have on visitation and tourism to these protected lands. This should include considerations of development of these parcels on the National Monument and its entrance road. To be sure, social and economic impacts, such as impacts to visitation, tourism and revenue to a National

⁵ <http://www.darksky.org/idsp/parks/hovenweep/>

Monument, are environmental effects for purposes of NEPA analysis. See 40 CFR § 1508.8 (“Effects include ecological, aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative.”). NEPA’s implementing regulations define a cumulative impact as an “impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.” 40 CFR § 1508.7. “A proper consideration of the cumulative impact of a project requires some quantified or detailed information...[g]eneral statements about possible effects and some risk do not constitute a hard look absent justification regarding why more definitive information could not be provided.” See *Klamath-Siskiyou v. BLM*, 387 F.3d 989, 994 (9th Cir. 2004) (citations omitted).

c. Air Quality Considerations

i. Section 4.2.3.2. GHG emissions.

The EA’s discussion of downstream GHG impacts only addresses combustion-related CO₂ emissions. Because methane emissions are a well-established, downstream result of gas production, transportation and storage, and because methane has 28-36 times the global warming impact of CO₂ over a 100 year period, BLM’s analysis of the downstream GHG effects of its proposed sale is woefully inadequate.

Furthermore, BLM should have analyzed GHG impacts based on the United States’ current ratio of combustion and non-combustion uses of the extracted fuels.

ii. Section 3.3.1 – Air Quality

The EA states, with insufficient support, that by applying Lease Stipulation UT-S-01 “leasing would have little impact on air quality.” P. 20. However, Lease Stipulation UT-S-01 only applies to new and replacement gas field engines. Without an analysis of the employment of used-existing engines, and their significantly greater emissions that are untouched by this lease stipulation, BLM’s conclusion of “little” air quality impacts is unwarranted.

VI. The BLM Failed to Comply with IM 2010-117.

The BLM failed to comply with IM 2010-117, which requires consideration of new lease stipulations to address new and potentially significant information about environmental impacts. IM 2010-117 at III.C.2. That is the case here, because of the monument’s recent designation as a “dark sky park.” The monument received the highest rating accorded to such parks – the “gold tier” – which means that “full array of visible sky phenomena can be viewed – e.g., aurora, airglow, Milky Way, zodiacal light, and faint meteors.”⁶ When the BLM finalized the Monticello RMP in 2008, this information was obviously not available, and it is potentially significant in

⁶ See International Dark Sky Ass’n, International Dark Sky Parks, available at <http://darksky.org/component/content/article?id=86>

that it underscores the importance of managing oil and gas activity on public lands around the monument with increased sensitivity to the internationally significant night sky resources.

In situations such as this, IM 2010-117 requires the BLM to “evaluate whether oil and gas management decisions identified in the RMP (including lease stipulations) are still appropriate and provide adequate protection of resource values (including, but not limited to, biological, cultural, visual, and socioeconomic resource values).” As explained above, the Monticello RMP does not address, let alone “provide adequate protection” for night skies in Hovenweep National Monument. Thus, while we support the BLM’s recognizing the monument’s night sky resource through the development of a lease notice, we believe that the BLM was required by IM 2010-117 to defer the protested parcels from the lease sale and perform a more thorough analysis of potential impacts on night skies and mitigation alternatives, including possible lease stipulations.

a. Coordination with Colorado BLM

The EA omits key outreach and consultation necessary to proceed with leasing parcel 050. The EA, on pages 62-64 documents the “List of Persons, Agencies, and Organizations Consulted for Purposes of this EA”. The list fails to include consultation of all key land managers critical to effectively managing the impacted public lands. Outreach from NPCA has confirmed that BLM in Utah has not, to date, consulted or informed the BLM leadership in Colorado at the state or district level regarding this lease sale which will have environmental impacts on lands managed in Colorado, as two of the leases are within close proximity to Canyons of the Ancients National Monument in Colorado.

IM 2010-117 requires consultation with BLM Field Offices that may be impacted by BLM leasing decisions. Section 6 of IM 2010-117 establishes that:

In order to achieve greater coordination and communication in managing shared landscapes, such as airsheds, viewsheds, watersheds, and soundscapes, state and field offices will coordinate and/or consult on the parcel review and NEPA analysis with stakeholders that may be affected by the BLM’s leasing decisions. Stakeholders may include parties such as: Federal agencies (e.g., FS, NPS, FWS, BOR, and U.S. Department of Defense); Adjacent BLM state and field offices, if lease nominations span or are close to administrative boundaries.

Coordination is further required by White House Council on Environmental Quality regulations, 40 C.F.R. 1503.1(a)(1), which controls the process for Inviting Comments: “(a) After preparing a draft environmental impact statement and before preparing a final environmental impact statement the agency shall: (1) Obtain the comments of any federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce environmental standards.” No such coordination has occurred in this lease sale despite lease occurring very near the administrative boundaries of Colorado BLM.

VII. Inadequate Protection through Stipulations and Conditions of Approval

In the EA, the BLM uses lease stipulations as the primary solution to conflicts. The document includes a host of stipulations for each lease that would be attached to the Application for Permit to Drill (APD). However, the APD stage requires little or no public input and postponing the majority of decisions to the APD stage means the scope of development will be shaped after the lease is in the legal authority of the oil and gas operator, and after BLM has agreed to development of the resources, likely only reversible through litigation.

Using stipulations as a solution to resource conflicts with the national monuments and other non-drilling uses is a shortsighted effort to truly mitigate the impacts of development. As an example, stipulations or COAs cannot mitigate the visual impact of a drilling derrick less than three miles from the Monument's visitor center nor can they control heavy truck traffic volume on County Road 212 (Hovenweep Road), the primary access to visitors to the monument. The average derrick height for a rig operating is 110 feet, or the equivalent of a 10-story building. Furthermore, stipulations would also permit heavy truck traffic operating 24 hours a day to service each well being developed, with an average of 1400 heavy truck trip and 400 light truck trips per well, based on EPA study .

Together, stipulations and conditions of approval cannot, under all reasonable circumstances, resolve these issues. Leasing before the BLM fully accounts for the range of potential impacts from oil and gas drilling conflicts with common sense and the spirit of the National Environmental Policy Act.

VIII. Determination of NEPA Adequacy: Moab Master Leasing Plan Implementation

In December 2008, the outgoing Bush Administration offered up 77 oil and gas leases on 130,000 acres of BLM lands, including several on pristine lands near Arches National Park. The immediate negative response from national park visitors and local recreationists prompted the Obama Administration to announce a series of reforms in order to create a more balanced approach to how leases are issued in sensitive areas. The MLP planning process was created as a response to the controversial 2008 oil and gas drilling leases offered near Arches and Canyonlands National Parks that threatened to impair the recreational and scenic values of these national treasures.

The Moab MLP now serves as a landmark in this collaborative process, particularly for the BLM and National Park Service, to strike a balanced approach between development and conservation. The resulting plan manages surface disturbance on nearly 450,000 acres adjacent to Arches and Canyonlands, a clear statement that the Moab region wants to ensure the national park and recreation driven economy is not harmed by ill-planned oil and gas development on adjacent lands.

The DNA for the March 2018 Canyon Country Oil and Gas Lease Sale represents the initial implementation of the Moab MLP. NPCA supports the principles laid out in the Moab MLP based the fact that it has proven to be the most effective tool to craft the best management plan for the area. We strongly urge the BLM to ensure the implementation of the following protections to comply with concerns raised by the National Park Service and the regulatory

framework of the MLP. NPCA requests that BLM implement the following within the MLP boundary:

- BLM consult with NPS Air Resources Division on individual and cumulative impacts of proposed leasing.
- Final DNA will ensure air quality mitigation are clearly laid out and enforceable prior to the Application for Permit to Drill stage, during and after exploration.
- BLM consult with State of Utah regarding air, water, sound, viewshed and potential conflicts with outdoor recreation.
- Final DNA should include explicit protections regarding potential groundwater impacts as a result of hydraulic fracturing and produced water injection wells.
- BLM consult NPS regarding dust mitigation.
- BLM should consult with NPS regarding noise propagation modeling.
- BLM should consult with United States Geological Survey regarding potential seismic activity and impacts to sensitive geologic formations.

These steps must be taken in concert with direct and meaningful consultation with federal agencies, particularly NPS to ensure the Moab MLP planning tool is implemented correctly. Sound implementation will allow for energy development to occur where appropriate and mitigate direct and cumulative impacts from energy develop on national park units and their connected economies.

IX. San Juan/Glen Canyon Master Leasing Plan

We would like to underscore our support for the development of a Master Leasing Plan or similar, collaborative landscape level planning as part of the RMP process and its application to oil and gas leasing and development in the BLM's Canyon Country district. We recognize that the existing San Juan Master Leasing Plan now incorporates a portion of the Bear Ears National Monument and would need a boundary adjustment. However, ongoing concerns with oil and gas leasing and potential development in the area remain and a lease sale by lease sale approach will only continue to result in conflict among stakeholders and on the landscape. There is a recognition that much of the area near Hovenweep National Monument contains a considerable amount of cultural resources – many of which have not been inventoried and are located outside of the monuments with protected status. NPCA, the National Park Service and others have raised concerns in the past regarding potential impacts to Hovenweep from poorly planned oil and gas leasing and development. The current Monticello RMP acknowledges the need to “encourage conservation of sensitive resource values” (Monticello Approved RMP—Mineral Resources P.80) within the Field Office planning area.

Many of these concerns could be resolved through inclusive landscape level master lease planning or a similar process, which would include stakeholder coordination and an opportunity to resolve potential conflicts on the landscape. In an area with many potentially conflicting uses, collaboration and transparency are the best methods to achieve the proper balance of use that reflects the value of national parks and monuments along with the history, culture and way of life of local communities. We support this pragmatic and commonsense level of analysis and public

participation and urge the BLM to ensure that it remains a standard practice within the Trump Administration.

X. Conclusion

Many communities impacted by oil and gas development in the Four Corners region have made it clear that comprehensive, inclusive planning better suits their values and plans for investment and economic development than moving forward with lease sales that will likely yield more conflict and little incentive for historically disenfranchised communities to collaborate with federal agencies. We believe there is too much at stake to lease the parcels near Hovenweep and Canyon of the Ancients National Monuments. We urge you to defer all oil and gas leases within 15 miles of Hovenweep from March 2018 Canyon Country Oil and Gas Lease Sale until a comprehensive analysis and collaborative planning process for oil and gas leasing decisions can be completed. We are particularly concerned with the proximity and high risk of impacts to Hovenweep and Canyon of the Ancients National Monuments from leasing and subsequent development on Parcels 50 and 51.

NPCA thanks you for considering our comments along with those of other stakeholders who support the goal of maintaining the integrity of the cultural landscape that is the foundation of living history in the southwest along with the unique visitor experience the area provides. We look forward to working with you to ensure that our national parks and surrounding public landscapes are protected and remain the special places that draw visitors from across the country and the world.

Respectfully,



Jerry Otero

Southwest Energy Program Manager



Erika Pollard

Utah Senior Program Manager

CC: Don Hoffhein, Monticello Field Office Manager

Lance Porter, Canyon Country District Manager

Ed Roberson, Utah BLM Director